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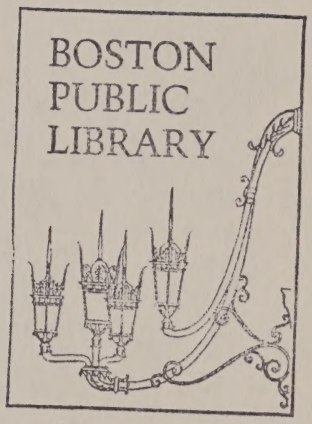
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Text Amendment Application No.
Boston Redevelopment Authority
Huntington Avenue/Prudential Center
District

TO THE ZONING COMMISSION OF THE CITY OF BOSTON:

The Boston Redevelopment Authority petitions to amend the text of the Boston Zoning Code, as established under Chapter 665 of the Acts of 1956 as amended, as follows.

By inserting, after Article 40, the following article:

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ARTICLE 41
HUNTINGTON AVENUE/PRUDENTIAL CENTER DISTRICT

SECTION 41-1. Statement of Purpose, Goals and Objectives. The purpose of this article is to establish the zoning regulations for the comprehensive plan for the Huntington Avenue/Prudential Center District as required by the provisions of the Downtown Interim Planning Overlay District, Article 27D of this code. The goals and objectives of this article and the Huntington Avenue/Prudential Center District Plan are: to preserve the historic and architectural character of the historic residential neighborhoods included in the district; to realize the potential of Huntington Avenue as an important city boulevard and as a transitional boundary between the large-scale Prudential Center and the historic St. Botolph Street and South End neighborhoods; to encourage the private redevelopment of the Prudential Center; to integrate more effectively the Prudential Center with adjacent districts; to promote development that emphasizes a sense of human scale through appropriate block and building sizes and shapes, modulated and detailed facades and storefronts, and articulated entryways; to increase pedestrian activity along the streets surrounding the Prudential Center by promoting streetscape improvements, requiring active ground-level uses, and permitting the creation of a

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mixed-use economy, including office, retail, commercial, and residential uses; and to promote the public welfare of the people of Boston.

SECTION 41-2. Recognition of the Huntington Avenue/Prudential District Center Plan. In accordance with Section 27D-18 of this code, which requires production of comprehensive planning policies, development controls, and design guidelines for Special Study Areas in the Downtown Interim Planning Overlay District, including Huntington Avenue/Prudential Center (Special Study Area No. 1), the Zoning Commission hereby recognizes the Huntington Avenue/Prudential Center District Plan (adopted by the Boston Redevelopment Authority on _____, as the same may from time to time be amended) as the general plan for the Huntington Avenue/Prudential Center District. The Huntington Avenue/Prudential Center District Plan shall also serve as the portion of the general plan for the City of Boston applicable to the Huntington Avenue/ Prudential Center District. This article is one of the means of implementing the Huntington Avenue/Prudential Center District Plan, the preparation of which is pursuant to Section 70 of Chapter 41 of the General Laws, Section 652 of the Acts of 1960, and Section 3 of Chapter 4 of the Ordinances of 1952.

SECTION 41-3. Physical Boundaries. The provisions of this article are applicable only in the Huntington Avenue/Prudential Center District. The boundaries of the Huntington Avenue/Prudential Center District are as shown on the map entitled, "Map 1D Huntington Avenue/Prudential Center District (supplemental to 'Map 1 Boston Proper')" of the series of maps entitled "Zoning Districts - City of Boston," as amended, and are depicted in Appendix A to this article.

SECTION 41-4. Applicability. This article together with the rest of this code constitutes the zoning regulations for the Huntington Avenue/Prudential Center District and applies as specified in Section 4-1 regarding the conformity of buildings and land to this code. Zoning Relief in the form of exceptions to these regulations pursuant to Article 6A shall not be available, except to the extent expressly provided in these regulations. Application of the provisions of Article 27D to the Huntington Avenue/Prudential Center District is rescinded, and the Huntington Avenue/Prudential Center District is deleted from the Downtown Interim Planning Overlay District as of the effective date of this article, except as provided below. Where conflicts between this article and the rest of this code exist, the provisions of this article shall govern. Except where specifically indicated in this article, the provisions of this article supersede Sections 13-1, 13-2, and 13-4, and Articles 8 and 14 through 24 of this code for the Huntington Avenue/Prudential Center District. However, the exclusions to building height limitations provided for in Section 16-2 shall apply to building height limitations established in this article, unless expressly otherwise provided. Further, the provisions of this article, are not applicable to the following Proposed Projects, which are governed by the rest of this code, including Article 27D:

1. Any Proposed Project for which application to the Inspectional Services Department for a building or use permit has been made prior to the first notice of hearing before the Zoning Commission for adoption of this article and for which no Zoning Relief is required.

2. Any Proposed Project for which appeal to the Board of Appeal for any Zoning Relief has been made prior to the first notice of hearing before the

Zoning Commission for adoption of this article, provided that such Zoning Relief has been or thereafter is granted by the Board of Appeal pursuant to such appeal.

SECTION 41-5. Establishment of Protection Areas. This section establishes three "protection areas" within the Huntington Avenue/Prudential Center District. The three protection areas are established in order to protect public open spaces and residential neighborhoods within the protection areas, the concentration of historic buildings within the protection areas, and the existing human scale of buildings within the protection areas. The three protection areas are shown on Map 1D of this code and Appendix A hereto, and are otherwise referred to herein, as "St. Botolph Street Protection Area," "St. Germain Street Protection Area" and "Massachusetts Avenue/Belvidere Protection Area." Any other provision of this article or this code notwithstanding, Proposed Projects within a protection area are limited to the as-of-right building height and floor area ratio ("FAR") specified for such protection area as follows:

1. **St. Botolph Street Protection Area.** Within that portion of the Huntington Avenue/Prudential Center District depicted on Map 1D of this code and Appendix A hereto as the "St. Botolph Street Protection Area," an as-of-right building height of forty-five (45) feet and an as-of-right FAR of two (2) are allowed.

2. **St. Germain Street Protection Area.** Within that portion of the Huntington Avenue/Prudential Center District depicted on Map 1D of this code and Appendix A hereto as the "St. Germain Street Protection Area," an as-of-

right building height of forty-five (45) feet and an as-of-right FAR of two (2) are allowed.

3. **Massachusetts Avenue/Belvidere Protection Area.** Within that portion of the Huntington Avenue/Prudential Center District depicted on Map 1D of this code and Appendix A hereto as the "Massachusetts Avenue Protection Area," an as-of-right building height of forty-five (45) feet and an as-of-right FAR of two (2) are allowed; provided that, any Proposed Project shall be allowed an as-of-right building height of seventy-five (75) feet and an as-of-right FAR of four (4) if such Proposed Project is subject to or shall elect to comply with the provisions of Article 31, Development Review Requirements, and the Boston Redevelopment Authority has certified that the Proposed Project complies with Article 31.

SECTION 41-6. Rooftop Additions within Protection Areas. Rooftop additions within any protection area are governed by the provisions of paragraphs 1 and 2 of this section.

1. **As-of-Right Rooftop Additions.** A rooftop addition within any protection area is allowed as of right only if such a rooftop addition is below forty-five (45) feet in height measured from grade.

2. **Rooftop Additions Permitted as Conditional Uses.** No roofed structure designed or used for human occupancy, access, or storage shall be erected or enlarged on the roof of an existing building if such construction is not allowed as of right pursuant to paragraph 1 of this section, unless after public notice and hearing and subject to Sections 6-2, 6-3, and 6-4 the

Board of Appeal grants permission therefor. In reaching its decision, said Board shall consider whether such roof structure is architecturally consistent with the distinctive historical and architectural character of the protection area. The Inspectional Services Department shall transmit a copy of the appeal for the conditional use to the Boston Landmarks Commission. The Boston Landmarks Commission may, within thirty days after the date of such transmittal, file with the Board of Appeal a recommendation, provided that if no such recommendation is received within said thirty days, the Board of Appeal may render its decision without such recommendation.

SECTION 41-7. Establishment of Christian Science Institutional Area. This section establishes the "Christian Science Institutional Area" within the Huntington Avenue/Prudential Center district. The area is shown on Map 1D of this code and Appendix A hereto. In order to preserve the unique urban plan of the Christian Science Center, within the Christian Science Institutional Area, an as-of-right building height of seventy-five (75) feet and an as-of-right FAR of two (2) are allowed provided that any structure in existence as of the date of the first notice of hearing before the Zoning Commission for the adoption of this article and described in the urban redevelopment plan applicable to the Christian Science Institutional Area as of said date may be reconstructed in conformity with said plan in the event of fire or other casualty, notwithstanding any contrary provision of Section 13-3. Any Proposed Project that would encroach upon or diminish open spaces in existence in the Christian Science Institutional Area as of said date shall be subject to development review pursuant Article 31, notwithstanding any contrary provisions of Section 31-4. Development review of any such Proposed Project with a gross floor area of less than 50,000 square feet

shall be limited in scope to consideration of the impact of the Proposed Project on the unique urban design of buildings and open spaces of the Christian Science Institutional Area and other urban design considerations described in Section 31-8.

SECTION 41-8. Establishment of Huntington Avenue Boulevard Area. This section establishes the "Huntington Avenue Boulevard Area" within the Huntington Avenue/Prudential Center District. The Huntington Avenue Boulevard Area is established in order to promote the improvement of Huntington Avenue as an important urban boulevard, while creating a successful transition between the scale of Huntington Avenue and the historic and architectural character of the St. Botolph Street neighborhood. The area is shown on Map 1D of this code and Appendix A hereto. Within the Huntington Avenue Boulevard Area, an as-of-right building height of one hundred fifteen (115) feet and FAR of eight (8) are allowed. Special side and rear yard setbacks apply within the Huntington Avenue Boulevard Area as provided in Section 41-18(4)(d).

SECTION 41-9. St. Cecilia Special Study Area. This section establishes the "St. Cecilia Special Study Area" within the Huntington Avenue/Prudential Center District. The area is shown on Map 1D of this code and Appendix A hereto. Within the St. Cecilia Special Study Area, an as-of-right building height of sixty-five (65) feet and FAR of four (4) are allowed; provided that, any Proposed Project shall be allowed an as-of-right building height of one hundred (100) feet and an FAR of seven (7) if such Proposed Project is subject to or elects to comply with the provisions of Article 31, Development Review Requirements, and the Boston Redevelopment Authority has certified that the Proposed Project complies with Article 31. In accordance with the Huntington Avenue/Prudential

Center District Plan, a comprehensive plan for the St. Cecilia Special Study Area shall be developed and shall address, at a minimum, the following: (a) appropriate means to preserve and encourage the rehabilitation and restoration of the notable historic buildings which characterize the St. Cecilia Special Study Area; (b) appropriate means to encourage the creation of housing, including Affordable housing; (c) an open space plan for appropriate portions of the St. Cecilia Special Study Area; (d) appropriate means to encourage a mix of retail uses serving neighborhood needs; (e) appropriate means to ensure a human scale in the design of new development in the St. Cecilia Special Study Area; (f) the appropriate mix of land uses to accomplish these objectives; and (g) land use regulations necessary to implement the comprehensive plan's proposals.

SECTION 41-10. As-of-Right Building Height and Floor Area Ratio. Except as otherwise may be permitted within a Planned Development Area ("PDA") established in accordance with Section 41-11 and Section 3-1A of this code and except as otherwise provided in Section 41-5, pertaining to protection areas, Section 41-7, pertaining to the Christian Science Institutional Area, Section 41-8, pertaining to the Huntington Avenue Boulevard Area, and Section 41-9, pertaining to the St. Cecilia Special Study area, a Proposed Project within the Huntington Avenue/Prudential Center District is allowed an as-of-right building height of one hundred fifty-five (155) feet and an as-of-right FAR of ten (10).

SECTION 41-11. Establishment of Area Within Which Planned Development Areas May be Permitted. This section establishes one area within which Planned Development Areas ("PDAs") may be permitted within the Huntington Avenue/Prudential Center District. The purposes for establishment of the area

within which PDAs may be permitted are: to establish a more flexible zoning law and encourage large-scale private redevelopment of the obsolete Prudential Center while insuring quality design by providing planning and design controls; to provide a secure economic base for the Back Bay hotel, convention, and hospitality economy; and to encourage development which knits together the surrounding neighborhoods through a new urban design for the Prudential Center.

1. **Consistency with Section 3-1.A.** The area in the Huntington Avenue/Prudential Center District within which PDAs may be permitted is shown on Map 1D of this code and Appendix A hereto, and is otherwise referred to herein, as the "PDA Area." No PDA is permitted within the Huntington Avenue/Prudential Center District except within the PDA Area. Any application for Development Plan approval for a Proposed Project within the PDA Area is subject to the provisions of this section and Sections 41-12 through 41-16, in addition to the provisions of Article 3-1A.

2. **Applicability of Future Amendments.** The issuance of any permit for the development or construction of any portion of a Proposed Project described in the approved Development Plan, as amended from time to time, shall be deemed to be the issuance of a permit for the entire Proposed Project for the purpose of applying Section 5 of Chapter 665 of the Acts of 1956 as amended from time to time. Without limiting the foregoing sentence, the proviso said of Section 5 that construction work under the permit proceed continuously to completion shall be deemed satisfied so long as construction on the Proposed Project proceeds generally in accordance with a development schedule set forth in the approved Development Plan.

3. **Amendment of Development Plan.** In a PDA, no Proposed Project shall proceed unless the Boston Redevelopment Authority has certified to the Commissioner of Inspectional Services that the Proposed Project is consistent with the approved Development Plan, as amended from time to time, for such PDA or the portion thereof to which said work relates. The procedure for amendment of the Development Plan is the same procedure as the procedure for initial approval of a Development Plan, as set forth in Section 3-1A(a) and subsection 1 of this Section 41-11. A Proposed Project for the reconstruction of a structure in existence in a PDA as of the date of Development Plan approval and described in said Development Plan, or of a structure constructed pursuant to said Development Plan, shall be determined by the Boston Redevelopment Authority to be consistent with said Development Plan, provided that said reconstruction is substantially similar to the original structure. Said reconstruction, unless described as part of the original Proposed Project in said Development Plan, shall constitute a separate Proposed Project for all purposes hereunder.

4. **Transition Provision.** Where a Huntington Avenue/Prudential Center District boundary line divides a lot in single ownership of record at the time the PDA is approved in accordance with this Section 41-11 and Section 3-1.A of the code, the regulations set forth in this article as applicable to the PDA, and the authorizations, requirements, terms, and conditions of said PDA approval, including the approved Development Plan, any Cooperation Agreement, Development Impact Plan Agreement, and any other plan or agreement included in or providing the basis for such PDA approval, shall be deemed to be applicable to an area extending to so much of the remainder

of said lot as is within 120 feet of said district boundary line, except that the height and FAR limitations applicable within the PDA shall extend only to so much of the remainder of said lot as is within thirty (30) feet of said district boundary line.

5. **Zoning Commission Approval Only; No Board of Appeal Action Required.** Upon approval of the Development Plan by the Boston Redevelopment Authority, the Boston Redevelopment Authority shall transmit the Development Plan to the Zoning Commission for its consideration. After transmittal of the Development Plan by the Boston Redevelopment Authority to the Zoning Commission, the Zoning Commission may approve the Development Plan and establish a PDA if such PDA consists solely of land with respect to which an agreement has been or is subsequently entered into with the Boston Redevelopment Authority establishing use and dimensional controls as specified in the Development Plan. A Proposed Project in a PDA shall be subject to all of the provisions of this article and code applicable to the subdistrict within which the Proposed Project is located, except as otherwise expressly provided herein, and to the provisions of the approved Development Plan. Nothing in this article shall be construed to limit the power of the Board of Appeal to grant Zoning Relief for Proposed Projects in PDAs, except that exceptions from the building height and FAR provisions set forth in Section 41-12 are not permitted.

SECTION 41-12. Planned Development Areas; Use and Dimensional Regulations. The land use and dimensional regulations for PDAs are established by this section.

1. **Use Regulations.** Proposed Projects within PDAs are subject to the use regulations set forth in Section 41-17.

2. **Dimensional Regulations.** Proposed Projects within a PDA shall be in Substantial Accord with the following FAR and building height standards: there shall be permitted a maximum FAR of six (6) and a maximum building height of one hundred fifty-five (155) feet, except that one (1) building only within the PDA shall be permitted a maximum building height of four hundred sixty-five (465) feet. For the purposes of this paragraph 2 of Section 41-12, FAR shall be computed as though the land within a PDA were in single ownership, notwithstanding actual ownership patterns or changes in ownership occurring after the approval of a Development Plan for the PDA and off-street parking shall not be included in said FAR computation.

SECTION 41-13. Planned Development Areas; Standards for Development Plan Approval. Before transmittal to the Zoning Commission, a Development Plan shall have been approved by the Boston Redevelopment Authority after a public hearing, provided, however, that no Development Plan shall be approved by the Boston Redevelopment Authority unless the Boston Redevelopment Authority finds that: (a) such Development Plan is in conformity with the provisions of this section and Sections 41-14 and 41-16; (b) such Development Plan conforms to the Huntington Avenue/Prudential Center District Plan and the general plan for the city as a whole; (c) each Proposed Project described in the Development Plan is in Substantial Accord with the building height and FAR standards set forth in Section 41-12 and all other applicable provisions of this article; and (d) on balance, nothing in such Development Plan will be injurious to the neighborhood

or otherwise detrimental to the public welfare, weighing all the benefits and burdens including, without limitation, those factors identified in Section 41-14 and 41-16.

SECTION 41-14. Planned Development Areas; Public Benefit Criteria. The Boston Redevelopment Authority may approve a Development Plan as meeting the provisions of Section 41-13 if the Development Plan proposes a plan for public benefits, consistent with the Huntington Avenue/Prudential Center District Plan, including, at a minimum, each of the following: (a) the creation of Affordable housing in accordance with the provisions of paragraph 1, below, of this section, and (b) the provision of substantial street improvements in accordance with the provisions of paragraph 2, below, of this section.

1. **Development Plan Approval for Creation of Affordable Housing.** The Boston Redevelopment Authority may approve a Development Plan proposing to construct or cause the construction of housing if: (a) at least twenty percent (20%) of the gross floor area proposed to be newly constructed (as opposed to refurbished or rehabilitated) as part of the Proposed Project is devoted to Residential Uses; (b) either (i) at least ten percent (10%) of the new dwelling units proposed in the Development Plan on-site are Affordable; or (ii) the Applicant creates or causes the creation of Affordable dwelling units off-site by making a dollar contribution to the Neighborhood Housing Trust or another entity acceptable to the Boston Redevelopment Authority, of not less than an amount calculated by multiplying the total number of dwelling units to be constructed as part of the Proposed Project by 0.2, and multiplying the result by the average per unit assistance granted by the Neighborhood Housing Trust for the twelve months prior to the effective

date of this article; and (c) a minimum of 0.7 off-street parking space is provided for each new on-site dwelling unit or, if a lesser number of spaces is permitted to be provided for such dwelling units pursuant to the terms of any applicable state or federal parking freeze or similar law, the greatest number of spaces permitted for such dwelling units under such parking freeze or similar law. On-site Affordable dwelling units shall be comparable in size, appearance, and quality to other dwelling units within the Proposed Project.

2. **Development Plan Approval for the Provision of Street Improvements.** The Boston Redevelopment Authority may approve a Development Plan providing, either directly or through funding, for substantial street improvements to streets adjacent to and in the vicinity of the PDA. Such street improvements must be consistent with any applicable street improvement regulations or guidelines and must be sufficient, as determined by the Boston Redevelopment Authority, to improve the appearance, condition, quality of design and materials, and accessibility and useability of the affected streets by pedestrians, taking into account increased vehicular and pedestrian flows.

SECTION 41-15. Planned Development Areas; Recommendations from Community Groups and City Departments. An Applicant shall file its application for Development Plan approval with the Boston Redevelopment Authority, which shall retain one copy for its files and transmit copies to appropriate city departments and agencies, and appropriate community and neighborhood organizations in the Huntington Avenue/Prudential Center District and the Back Bay, South End, and St. Botolph Street neighborhoods, including any umbrella

citizen advisory group, such as the Prudential Project Advisory Committee, designated by the Boston Redevelopment Authority. The Boston Redevelopment Authority shall review comments and recommendations from the general public, neighborhood and community organizations, and public agencies before it renders a decision on an application for Development Plan approval.

SECTION 41-16. Planned Development Areas; General Design and Environmental Impact Standards. In addition to the development review requirements set forth in Article 31 of this code, Proposed Projects submitted as part of an application for Development Plan approval under Section 41-13 shall comply with the District general design and environmental impact standards described herein. Compliance with these additional standards shall be determined through the development review process described in said Article 31. The purpose of these additional standards is to maintain and improve the quality of life in the Huntington Avenue/Prudential Center District.

1. **Shadow Criteria.** Each Proposed Project shall be arranged and designed in a way to assure that it does not cast shadows for more than two hours from 8:00 a.m. through 2:30 p.m., on any day from March 21 through September 21, in any calendar year, on any portion of dedicated public parkland that either (a) is not cast in shadow during such period on such days by structures existing as of the effective date of this article; or (b) would not be cast in shadow during such period on such days by structures built to the as-of-right limits allowed by this article, whichever structures cast the greater shadow. In addition, shadow studies shall be conducted in connection with any Proposed Project demonstrating that shadows will be

minimized to the extent practicable in public open spaces created as part of the Proposed Project.

2. **Wind**. Buildings shall be designed to avoid excessive and uncomfortable downdrafts on pedestrians. Each Proposed Project shall be shaped, or other wind-baffling measures shall be adopted, so that the Proposed Project will not cause ground-level ambient wind speeds to exceed the standards in Table A of this section.

TABLE A
PEDESTRIAN SAFETY/COMFORT WIND STANDARDS

Activity Area	Effective Gust Velocity (egv)*	Permitted Annual Occurrence Frequency
Limit for All Pedestrian Areas	13.8 m/sec (31 mph)	1.0%
Major Walkways- Especially Principal Egress Path for High-Rise Buildings	13.8 m/sec	1.0%
Other Pedestrian Walkways- Including Street and Arcade Shopping Areas	11.2 m/sec (25 mph)	5%
Open Plazas and Park Areas Walking, Strolling Areas	6.3 m/sec (14.1 mph)	15%
Open Plaza and Park Areas, Open-Air Restaurants	4.0 m/sec (9 mph)	20%

* The effective gust velocity (egv) is defined as egv = U + 1.5 fvc, where U is the mean hourly windspeed at a particular location and fvc is the root mean square of the fluctuating velocity component measured at the same location over the same time interval.

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3. **Transportation Access.** Each Proposed Project with a gross floor area in excess of 50,000 square feet shall be subject to a Transportation Access Plan acceptable to the Boston Transportation Department providing for effective transportation access and mitigation measures designed to minimize adverse traffic impacts on the Huntington Avenue/Prudential Center District and surrounding neighborhoods and improve traffic flow and access within the affected area. Such Transportation Access Plan shall also provide for effective parking management measures to minimize adverse parking effects within the Huntington Avenue/Prudential Center District and surrounding neighborhoods. If the Development Plan for the Proposed Project calls for the completion of the Proposed Project in phases, then the Boston Redevelopment Authority may require that the Development Plan, or any Cooperation Agreement governing the implementation of the Development Plan, provide that a given phase of the Proposed Project shall not commence until the implementation of traffic and parking mitigation measures specified in the Transportation Access Plan or Cooperation Agreement as prerequisites to the approval of a particular phase of the Proposed Project.

4. **Landmarks and Historic Buildings.** Each Proposed Project shall generally be designed and arranged in such a way as to limit the reduction of light and air surrounding Landmarks and Historic Buildings, and to minimize the shadow impact on their facades.

5. **Enhancement of Pedestrian Environment.** Each Proposed Project shall enhance the pedestrian environment, by means such as: (a) pedestrian pathways connecting to mass transit stations; (b) spaces accommodating

pedestrian activities and public art; (c) materials, landscaping, public art, lighting, and furniture that enhance the pedestrian environment; (d) interior retail uses; (e) pedestrian systems that encourage more trips on foot; (f) sidewalk and street improvements that improve pedestrian flow and increase pedestrian safety on sidewalks and crosswalks; (g) other attributes that improve the pedestrian environment and pedestrian access to mass transit stations; (h) appropriate management and maintenance of public space within the Proposed Project; and (i) exterior or interior pedestrian passageways and thru-block corridors.

6. **Boston Civic Design Commission Review.** In addition to complying with the above standards, each Proposed Project shall be subject to review by the Boston Civic Design Commission, in accordance with the provisions of Article 28.

SECTION 41-17. Huntington Avenue/Prudential Center District Use Regulations. In the Huntington Avenue/Prudential Center District, the use of land and structures is hereby regulated as provided in this section. The provisions of Article 8 apply only as specified in this section, except that Section 8-6 applies. No land or structure shall be erected, used, or arranged or designed to be used, in whole or in part, except in conformity with the provisions of this Section 41-17 or in conformity with the provisions of an approved Development Plan with respect to land or structures located in a PDA.

1. **Special Use Areas.** Any other provision of this article or this code notwithstanding, within the St. Botolph Street Protection Area and

St. Germain Street Protection Area, Proposed Projects shall be limited to those uses indicated as follows:

(a) St. Botolph Street Protection Area: Allowed uses shall be limited to residential uses identified in paragraph 4(a) of this section and uses accessory thereto identified in paragraph 4(q) of this section. Conditional uses shall be limited to residential uses identified in paragraph 5(a) of this section and uses accessory thereto identified in paragraph 5(k) of this section.

(b) St. Germain Street Protection Area: Allowed uses shall be limited to residential uses identified in paragraph 4(a) of this section and uses accessory thereto identified in paragraph 4(q) of this section. Conditional uses shall be limited to residential uses identified in paragraph 5(a) of this section and uses accessory thereto identified in paragraph 5(k) of this section.

2. **Inclusion of Day Care Facilities.** The provisions of this paragraph 2 shall apply only to Proposed Projects exceeding a building height of one hundred fifteen (115) feet, or an FAR of six (6), or both. Any Proposed Project having a gross floor area, not including the floor area devoted to Residential Uses, which equals or exceeds one hundred thousand (100,000) square feet, shall devote to day care facilities an amount of floor area equal to at least the amount listed below in Table B of this Section. For the purposes of this paragraph 41-17.2 and Table B only, floor area devoted exclusively to hotel or motel uses shall be multiplied by 0.5 before being used in any calculation of required day care facilities. An Applicant for a

Proposed Project subject to the provisions of this paragraph may fulfill its obligations under this paragraph by either (a) creating such facilities on-site; or (b) creating such facilities, or causing such facilities to be created, in the vicinity of the Proposed Project, within the Huntington Avenue/Prudential Center District, the Back Bay neighborhood, or the South End neighborhood; provided that any Proposed Project subject to the provisions of this section shall devote to day care facilities located on-site an amount of floor area equal to at least four thousand (4,000) square feet or the minimum required square footage, whichever is less. The provision of day care facilities in accordance with this paragraph shall be in conformity with written regulations to be adopted by the Boston Redevelopment Authority after public notice and hearing. For the purposes of this paragraph, the term "day care facilities" includes the finish, furnishings, and equipment required for use of the floor area for such facilities, to enroll people for care, instruction, or recreation during regular business hours.

TABLE B

PROVISION OF DAY CARE FACILITIES

Size of Proposed Project (Gross Square Feet)	Minimum Day Care Facilities (Gross Square Feet)
100,000 up to 200,000	2% of gross floor area
200,000 up to 500,000	4,000
500,000 up to 1,000,000	8,000
More than 1,000,000	12,000

3. **Ground Level Uses.** Within a Proposed Project, uses with street frontage on Huntington Avenue, Massachusetts Avenue or Boylston Street, either located on the ground level or entered by stairs from a sidewalk entry are

limited to Ground Level Uses, as listed in Appendix B to this article. A display window physically contiguous to a Ground Level Use or with exhibits or displays operated and maintained by an occupant of the building in which said window is located is allowed as a Ground Level Use. All other uses with street frontage which are allowed by this section are conditional uses when located on the ground level or entered by stairs from a sidewalk entry.

4. **Allowed Uses.** No land or structure in the Huntington Avenue/Prudential Center District shall be erected, used, or arranged or designed to be used, in whole or in part, for any use not specified in this subsection 4 or in an approved Development Plan for land or structures in a PDA, or in subsection 5 of this Section 41-17 subject to the provisions of Article 6, or in subsections 1, 2, and 3 of this Section 41-17 subject to the limitations therein set forth. Any use so specified in this subsection 4 shall be allowed as a matter of right, subject only to the provisions of this Section 41-17, including, without limitation, subsections 1, 2, and 3 hereof, or, in the case of a PDA, the approved Development Plan.

   (a) Residential Uses. Limited to: single-family, two-family, and multifamily dwellings, artists' live/work space, apartment house, lodging or boarding house, temporary housing shelters, and any dwelling converted for more families, where structures after conversion will conform to this code. Residential uses include any Affordable dwelling units, including but not limited to Affordable dwelling units which are rental units, condominiums, or limited equity share cooperatives.

(b) Restaurant and Entertainment Uses. Limited to: the service or sale of food or drink for on-premises consumption whether or not dancing or entertainment is provided; concert hall; theater, commercial or nonprofit (including motion picture or video theater, but not drive-in theater); art galleries, nonprofit or for profit; provided that the uses set forth in this paragraph (b) shall be conditional for any building (other than a building used primarily as a hotel or motel) that abuts or is located across an alley from a building located in the St. Botolph Street Protection Area or St. Germain Street Protection Area and provided further that uses described in Use Item 38A of Table A of Section 8-7 of this code are forbidden.

(c) Office Uses. Limited to: offices of community service organizations; medical or dental offices; business or professional offices; clinics; offices of real estate, insurance, or other agency, institutional, or government office; office building; post office, or bank (including automatic teller machines but not including drive-in bank) or similar establishment.

(d) Dance, theater, or music rehearsal studio, artist studio or work space.

(e) Hotel or motel.

(f) Group Care Residence, limited, as defined in clause 22B of Section 2-1, provided that a cooperation agreement exists relating to the location and operation of such facilities between the Boston Redevelopment

Authority, the City of Boston, and the agency of the Commonwealth operating, licensing, or regulating such facilities.

(g) Day care center, family care center, nursery school, kindergarten, elementary or secondary school, or community health center or clinic.

(h) Recreational and Community Uses. Limited to: private grounds for games and sports; other social, recreational, or sports center conducted for profit; private club (not including quarters of fraternal or sororal organizations) operated for members only; adult education center or community center building; settlement house; the maintenance and operation of any amusement game machine in a private club, or similar noncommercial establishment.

(i) Public Service Uses. Limited to: public service pumping station, sub-station, or automatic telephone exchange, subject to St. 1956, c. 665, s. 2.

(j) Wholesale Uses. Limited to: office or display or sales space of a wholesale, jobbing, or distributing house; and provided that not more than twenty-five percent (25%) of gross floor area devoted to this use is used for assembling, packaging, and storing merchandise.

(k) Service Uses. Limited to: video or film production studio; barber shop; beauty shop; shoe repair shop; self-service laundry; pick-up and delivery station of laundry or dry-cleaner; tailor shop; hand laundry; dry-

cleaning shop; framer's studio; caterer's establishment; photographer's studio; printing plant; upholster's shop; carpenter's shop; electrician's shop; plumber's shop; radio and television repair shop; key and lock shop; express mail operation and digs box; ticket outlet; funeral home; undertaker's establishment; mortuary; research laboratory; animal hospital or clinic; or similar use provided that in laundries and cleaning establishments, only nonflammable solvents are used for cleaning.

(l) Retail Uses. Limited to: stores primarily serving the local retail business needs of the neighborhood; artist supply store; grocery store; department store, furniture store, general merchandise mart or other store serving the general retail business needs of a major part of the city, including accessory storage; provided that uses described in Use Item 34A are forbidden.

(m) Uses specified in Appendix B hereto.

(n) Institutional Uses. Limited to: place of worship, monastery, convent, or parish house; elderly care facility; nonprofit library or museum, not accessory to another institutional use; research laboratory.

(o) Communications Uses. Limited to: radio and television studio; operation of fiber optic and other related communication equipment; telecommunication operation; data retrieval and transmission operation.

(p) Urban Plazas. Limited to: passive and recreational uses accessible from adjoining streets, with facilities and structures appropriate to urban plazas, including benches and other seating facilities, pools, fountains, works of art, plantings, and other features.

(q) Accessory Uses. Subject to the limitations and restrictions of Article 10, limited to: (i) a garage or parking space for occupants, employees, students, and visitors, provided that such use is accessory to a residential use under paragraph 4(a) of this section, a hotel or motel, or a group care residence under paragraph 4(f) of this section; (ii) a swimming pool or tennis court; (iii) the storage of flammable liquids and gases incidental to a lawful use; (iv) the manufacture, assembly, or packaging of products sold on the lot; (v) the maintenance and operation of not more than four amusement game machines accessory to eating and drinking establishments; (vi) the sale over the counter of on-premises prepared food or drink for off-premises consumption or for on-premises consumption if, as so sold, such food or drink is ready for take-out, provided such sale is wholly incidental to a use listed under paragraph 4(b) or 4(l) of this section; (vii) or any use ancillary to, and ordinarily incident to, a lawful main use, provided that any such use shall be subject to the same restrictions, conditions, limitations, provisos, and safeguards as the use to which it is accessory.

5. **Conditional Uses.** No land or structure in the Huntington Avenue/Prudential Center District shall be erected, used, or arranged or designed to be used, in whole or in part, for any use under the provisions of Article 6 unless such

use is specified in this subsection 5. The granting of a permit for any use so specified may be authorized conditionally by the Board of Appeal acting under the provisions of Article 6, subject to the requirements set forth in said article and this Section 41-18 or may be allowed by the Zoning Commission in its approval of a Development Plan for a PDA. The continued right to a conditional use is dependent upon maintaining the character and extent of operations and structures.

(a) Residential Uses. Limited to: temporary dwelling structure, orphanage, dormitory, fraternity or sorority house, and any dwelling converted for more families, provided that, after conversion, any nonconformity as to floor area ratio is no greater than prior to conversion.

(b) Group Care Residence. Unless otherwise allowed pursuant to paragraph 4(f) of this section.

(c) Light Manufacturing Uses; kennel or pound.

(d) Parking lot or parking garage.

(e) Wholesale Uses. Limited to accessory storage (other than of flammable liquids, gases, and explosives) in roofed structures or office or display or sales space of a wholesale, jobbing, or distributing house where more than twenty-five percent (25%) of gross floor area devoted to this use is used for assembling, packaging, and storing merchandise.

(f) Fast Food Restaurant Uses. Limited to: sale over the counter, not wholly incidental to a use listed under paragraph 4(b) or 4(l) of this section, of on-premises prepared food or drink for off-premises consumption or for on-premises consumption if, as so sold, such food or drink is ready for take-out.

(g) The change of use of any residence to another use.

(h) Transportation Uses. Limited to bus terminal, bus station, subway station or railroad passenger station, airline shuttle service.

(i) Any use on a lot adjacent to, or across the street from, but in the same district as, a lawful use to which it is ancillary and for which it would be a lawful accessory use if it were on the same lot; provided that any such use shall be subject to the same restrictions, conditions, limitations, provisos, and safeguards as the use to which it is ancillary.

(j) Institutional Uses. Limited to college or university granting degrees by authority of the Commonwealth; fraternity or sorority house or dormitory; trade, professional, or other school; penal or correctional institution; detention home; machine shop or other noisy activity accessory to a school, college, or university, adequately sound-insulated to protect the neighborhood from unnecessary noise; hospital, sanatorium, elderly care facility, orphanage, or similar institution not for correctional purposes, whether or not providing custodial care for drug addicts, alcoholics, or mentally ill or mentally deficient persons; or

library or museum not conducted for profit and accessory to another institutional use not allowed pursuant to paragraph 2(m) of this section.

(k) Accessory Uses. Limited to: (i) a garage or parking space for occupants, employees, customers, students, and visitors, accessory to an allowed or conditional use, but not provided for under paragraph 4(q) of this section; (ii) clinic or professional offices accessory to a hospital or sanatorium whether or not on the same lot, provided that such use will occupy interior space being used by the same institution for another institutional use at the time such change is proposed; (iii) clinic or professional offices accessory to a hospital or sanatorium whether or not on the same lot, providing custodial care for drug addicts, alcoholics, or mentally ill or mentally deficient persons; (iv) in hospitals with more than fifty (50) beds, incidental uses and services ordinarily found in connection therewith and primarily for the patients and staff when conducted wholly within a building and entered from within the building where there is but one building on the lot line or from an entrance not directly facing a street or lot line where there is more than one building on a lot; (v) car wash, valet service, and automobile repair service accessory to a parking garage and located entirely within said parking garage; (vi) rental motor vehicle or trailer agency accessory to a hotel or motel, provided that no rental vehicles or trailers are parked on the street and that any exterior lighting is arranged to shine downward and away from residences.

6. **Forbidden Uses.** No land or structure in the Huntington Avenue/Prudential Center District shall be erected, used, or arranged or designed to be used, in whole or in part, for any use specified in the use item column of Table A of Section 8-7 if such use is not specified in subsections 1, 2, 3, 4 or 5 of this section as the case may be, as an allowed or conditional use, except for such nonconforming uses as may be allowed to be continued under the provisions of Article 9.

SECTION 41-18. Specific Design Requirements. Except as otherwise expressly provided in this article or code, all Proposed Projects within the Huntington Avenue/Prudential Center District shall comply with the specific design requirements established in this section. Except as provided in Article 6A, no Zoning Relief shall be granted from the provisions of this section.

1. **Street Wall Continuity.** A Street Wall of any Proposed Project shall be built to be coextensive with the building line, as defined in paragraph 7A of Section 2-1, of the block on which the Street Wall faces. If there is no determinable building line of said block, then said Street Wall shall be built at a depth from the curb line equal to that of the building line farthest from the curb line of the two blocks adjacent to said block, facing onto the same street. If there is no determinable building line of either of said adjacent blocks, then (i) if the Proposed Project is subject to or elects to comply with the development review provisions of Article 31, an appropriate Street Wall location shall be determined in the development review process or (ii) otherwise, notwithstanding any contrary revision of Section 31-4, the Proposed Project shall be deemed subject to the development review provisions of Article 31 for the limited purpose of determining an

appropriate Street Wall location. The foregoing notwithstanding, within a PDA, a Street Wall of any Proposed Project shall be built at the depth from the curb line provided for in the applicable Development Plan. A Proposed Project shall comply with the requirements of this Section 41-18.1 with respect to each facade facing a public street, but excluding alleys and private ways.

Except as otherwise provided in this Section 41-18.1, Street Walls shall be continuous across a lot. However, design articulation involving deviations from the Street Wall Plane of two (2) feet or less shall be permitted across the Street Wall. Further, larger recesses and bays in Street Walls shall be permitted as follows. For Proposed Projects not subject to nor electing to comply with the development review requirements of Article 31, recesses in Street Walls shall be permitted as set forth in Table C and bay windows shall be permitted to extend from the Street Wall Plane above the ground floor ceiling height, provided that such bay windows do not affect more than forty percent (40%) of the Street Wall Plane. For Proposed Projects which are subject to or elect to comply with the development review requirements of Article 31, recesses and bays shall be permitted if appropriate to the creation of visually interesting designs or the accommodation of a specific ground level function, such as a hotel or residential carriageway, provided that the facade remains compatible with its historical and architectural surroundings and visual continuity in the block front is preserved, as certified by the Boston Redevelopment Authority in accordance with the urban design provisions of Article 31.

TABLE C

PERMITTED STREET WALL RECESSES*

Location	Maximum Depth from the Street Wall Plane	Maximum Aggregate Surface Area
Below ground floor ceiling height	Ten (10) feet	Fifty percent (50%)
Above ground floor ceiling height	Ten (10) feet	Fifty percent (50%)
	Fifteen (15) feet	Thirty percent (30%)

* The "ground floor ceiling height" means the height of the underside of the floor structure of the second floor. The "maximum aggregate surface area" means the portion, expressed as a percentage, of the surface area of the specified part of the Street Wall Plane (i.e., above the ground floor ceiling height or below) affected by recesses. The areas within which recesses are permitted are not cumulative; i.e., the maximum aggregate surface area that may be affected by recesses, whether of 10 or 15 feet, is 50%.

2. **Street Wall Height.** The Street Wall Height of Proposed Projects within the Huntington Avenue/Prudential Center District shall not exceed sixty-five (65) feet or the initial cornice height of the adjacent buildings, whichever is less, except that street walls fronting onto Huntington Avenue shall be permitted a Street Wall Height of not exceeding eighty (80) feet or the initial cornice heights of the adjacent buildings, whichever is less. The endwall of a street which is a cul-de-sac does not count as a Street Wall for the purposes of this Section 41-18.

3. **Display Window Area Regulations.** The provisions of this subsection 3 shall apply only to any Proposed Project with a gross floor area of 50,000 square feet or more and only to Street Walls facing onto Massachusetts Avenue, Huntington Avenue, or Boylston Street. The Display Window Area, excluding

any portion occupied by a permitted Lobby Entrance Area or entrance/exit to an off-street parking or loading area, shall be sufficiently and appropriately glazed and transparent, with sufficient individual storefront entrances, so as to encourage active pedestrian use, as certified by the Boston Redevelopment Authority in accordance with the urban design provisions of Article 31. Glazed portions of the Display Window Area, excluding storefront entrances and Lobby Entrance Areas, shall be used to a depth of at least two (2) feet for: (i) the display of goods and services available for purchase on the premises; or (ii) an area for exhibits and announcements. However, the provisions of the preceding sentence shall not apply to foyer space for cultural uses, restaurants, or other active storefront uses.

4. **Setback and Floorplate Requirements.**

(a) Sky Plane Setbacks. Other than decorative cornices and other surface ornamentation, any portion of a Proposed Project (including, but not limited to, mechanical equipment), which portion faces a street listed in Table D, shall be set back by not less than the amount of the "Sky Plane Setbacks" set forth in Table E and applicable at the Street Wall Height and a building height of one hundred fifteen (115) feet. Portions of a Proposed Project more than one hundred fifty-five (155) feet high shall be treated in a manner to create a visually distinctive roof or other termination of the facade of the Proposed Project.

TABLE D

STREETS ON WHICH SKY PLANE SETBACKS ARE REQUIRED

Belvidere Street	Exeter Street
Boylston Street	Huntington Avenue
Dalton Street	Massachusetts Avenue
Dartmouth Street	Stuart Street

TABLE E

SKY PLANE SETBACKS

Minimum Depth of Setback from Street Wall

Location	Above Street Wall Height	Above 115' (Total Setback From Street Wall)
Street listed in Table E	5'	15'
PDA	5'	55'

The Sky Plane Setback provisions established in this paragraph shall not be applicable to the extent that, as a consequence of such provisions, the maximum possible gross floor area for any floor of a Proposed Project would be less than nine thousand (9,000) square feet.

(b) Entrance Elements. In order to permit the creation of a distinctive entrance element, and notwithstanding any contrary provision of paragraph (a) of this subsection 41-18.4, a portion of the front facade of a building may be built to the one hundred twenty-five (125) foot level without setbacks provided that such portion has a maximum horizontal dimension of 35 feet or such other dimension as may be

approved by the Boston Redevelopment Authority in development review pursuant to Article 31 of the code for any Proposed Project subject to or electing to comply with such Article.

(c) Rear Setbacks. Any portion (including, without limitation, mechanical equipment) of any Proposed Project fronting on a street listed in Table F shall be setback from the rear lot line by not less than the amount of the "rear setback" set forth in Table F for such street.

TABLE F
REAR SETBACKS

15' Rear Setback

Lots fronting on:

Belvidere Street
Clearway Street
Edgerly Road
Haviland Street
Massachusetts Avenue, north of Huntington - southwest side
St. Germain Street - southwest side

20' Rear Setback

Lots fronting on:

Albermarle Street
Blackwood Street
Boylston Street
Durham Street
Garrison Street
St. Germain Street - northeast side

25' Rear Setback

Lots fronting on:

St. Botolph Street
Follen Street

30' Rear Setback

Lots fronting on:

Cumberland Street
Huntington Avenue
Massachusetts Avenue, south of Huntington
West Newton Street

Anything to the contrary herein contained notwithstanding, the following shall not be subject to the rear setback requirements of this paragraph (c) and paragraph (d) of this Section 41-18: (i) fences and

walls not over six feet in height above the natural grade of the rear yard; (ii) accessory buildings not over fifteen (15) feet in height and not less than five (5) feet from any lot line; (iii) porches and balconies not occupying more than half the horizontal length of the rear facade and not less than eight (8) feet from any lot line; (iv) fire escapes, bays, chimneys, flues, and gutters not less than five (5) feet from the rear lot line; and (v) belt courses, leaders, sills, pilasters, lintels, decorative cornices, and other surface ornamentation. In addition, the requirements of this paragraph (c) shall not apply within a PDA. The street wall continuity provisions of paragraph (a) of this subsection 41-18.4, and not the rear yard requirements of this paragraph (c) nor paragraph (d) of this subsection, shall apply to that part of a rear yard which abuts a public street other than a street less than twenty (20) feet in width or an alley. For the purposes of computing rear yard setbacks pursuant to this paragraph (c) and paragraph (d) of this subsection 41-18.4, "rear lot line" shall have the meaning set forth in paragraph 2-1(31) of the code, except that where the rear of a lot abuts a public alley or private way, the rear lot line shall be deemed to be the centerline of said alley or way. Notwithstanding any contrary provision of paragraphs 2-1(30) and 2-1(31), for any lot abutting two or more streets, the determination of which portions of the lot constitute the "front" and "rear" shall be made as follows: (i) if the building on the lot is or is proposed to be contiguous with an adjacent building, the front and rear of said lot shall correspond to the front and rear of said adjacent building; (ii) if the determination cannot be made on the basis of clause (i), the rear of said lot shall be the portion abutting a

public alley or private way and the front shall be the portion that most nearly qualifies as distant and opposite the rear of said lot; however, (iii) if the determination cannot be made on the basis of either clauses (i) or (ii) above, the rear of said lot shall be determined in accordance with said paragraphs 2-1(30) and 2-1(31).

(d) Special Rear Setbacks in the Huntington Avenue Boulevard Area. Any Proposed Project in the Huntington Avenue Boulevard Area shall be subject to the following special rear setback requirements. Any portion of said Proposed Project (including, without limitation, mechanical equipment) shall be setback from the rear lot line:

(i) at and above grade by thirty (30) feet;

(ii) above a building height of sixty (60) feet by ten (10) additional feet for a total a setback of forty (40) feet;

(iii) above a building height of eighty (80) feet, by five (5) additional feet for a total setback of forty-five (45) feet.

(e) Special Side Setbacks in the Huntington Avenue Boulevard Area. Any Proposed Project located in the Huntington Avenue Boulevard Area shall be subject to the following special side setbacks: other than decorative cornices and surface ornamentation, any portion of such a Proposed Project (including, without limitation, mechanical equipment) above a building height of eighty (80) feet shall be set back by not less than ten (10) feet from any Street Wall facing Cumberland Street, Newton Street, or Garrison Street, or building edge facing Alley No. 405.

(f) Maximum Floor Plates. The following shall be applicable to any Proposed Project with a building height in excess of one hundred fifty-five (155) feet: above a height of one hundred fifty-five (155) feet, the average gross floor area per floor of separate buildings or elements of such Proposed Project shall not exceed twenty-two thousand five hundred (22,500) square feet; and no single floor above such height shall exceed a maximum floor area of twenty-five thousand (25,000) square feet.

5. **Special Design Guidelines for Protection Areas.** Within the St. Botolph Street Protection Area and the St. Germain Street Protection Area, any Proposed Project for exterior alteration or construction shall be designed such that the exterior proportions, scale, massing, window treatment, materials, colors, and architectural detailing are compatible with the observable historical and architectural character of other buildings in the area within which the Proposed Project is located, and with streets and open spaces to which it is visually related, as identified in the Huntington Avenue/Prudential Center District Plan. To preserve a lot-by-lot appearance, facade ornamentation should be varied, and facades should be divided into modules or bays to reflect the lot width established by historic buildings within each area and to continue the established bay rhythm of each block. Within these areas, any Proposed Project for exterior alteration or construction shall proceed only if the Boston Redevelopment Authority finds that the Proposed Project is consistent with the standards specified in this section. The provisions of this subsection 5 shall not apply to any area subject to the jurisdiction of the St. Botolph Architectural Commission or

other architectural board or commission with design review authority and established pursuant to a general or special law of the Commonwealth of Massachusetts.

(a) Procedure for Approval of Proposed Project. Each application for a permit for a Proposed Project subject to the provisions of this Section 41-18.5 shall be filed in triplicate with the Inspectional Services Department, which shall retain one copy for its files and transmit the other copies as follows: one to the Boston Redevelopment Authority and the other to the Boston Landmarks Commission. The Boston Landmarks Commission may, within thirty days after the date of such transmittal, file with the Boston Redevelopment Authority a report with recommendations, together with material, maps, or plans to aid the Boston Redevelopment Authority in determining consistency with the standards for approval set forth in this section. The Boston Redevelopment Authority shall not notify the Inspectional Services Department of its findings on the application for a Proposed Project until such report with recommendations has been received and considered, provided that if no such report is received within said thirty days, the Boston Redevelopment Authority may certify to the Inspectional Services Department its findings without such report. The Boston Redevelopment Authority may find that the Proposed Project is consistent with the standards set forth in this section or is not consistent with the standards set forth in this section; provided that if no such findings are transmitted to the Inspectional Services Department within forty-five days of the receipt by the Boston Redevelopment Authority of the application for a Proposed Project, the

Proposed Project shall be deemed to be consistent with the standards set forth in this section without need for further action. Any Applicant aggrieved by the denial of any permit by the Inspectional Services Department pursuant to this section may appeal to the Board of Appeal within forty-five (45) days after such denial of a permit, in accordance with the provisions of Article 6.

(b) Special Facade Considerations. In reaching its decision, the Boston Redevelopment Authority shall consider whether the Proposed Project will have an adverse effect on: (a) the character of the St. Botolph Street Protection Area and the St. Germain Street Protection Area as areas within which traditional brownstone and brick residential facades predominate; or (b) the lot-by-lot appearance of the district.

SECTION 41-19. Off-Street Parking. The provisions of Article 23, Off-Street Parking, shall govern any Proposed Project in the Huntington Avenue/Prudential Center District, except a Proposed Project in a PDA for which off-street parking shall be provided as required in the applicable Development Plan. The off-street parking requirements stated as applicable to a specific floor area ratio set forth in Table B of Section 13-1 shall also apply to the same floor area ratio set forth in this article. Where a use provided for in this article is not included in any use item number listed in Article 23, off-street parking facilities shall be provided in accordance with the requirements for the use item number listed in Article 23 which is most similar to such use. The foregoing notwithstanding, in no event shall any Proposed Project be required to provide parking in excess of that permitted under any applicable state or federal parking

freeze or similar law. No portion of any lot within the St. Botolph Street Protection Area or St. Germain Street Protection Area shall be used for parking accessed directly from a public street (excluding alleys) over a curb cut not existing as of the date of the first notice of hearing before the commission for the adoption of this article.

SECTION 41-20. Off-Street Loading. Article 24 provides the regulations governing the provision and design of off-street loading facilities for the use of any structure or land not subject to the provisions of Article 31, Development Review Requirements. Where a use provided for in this article is not included in any use item number listed in Article 24, off-street loading facilities shall be provided in accordance with the requirements for the use item number listed in Article 24 which is most similar to such use. The provision and design of off-street loading facilities for the use of any structure or land which is subject to the provisions of Article 31 shall be determined through the Development Review Requirements process. Notwithstanding any contrary provision of Article 24, off-street loading facilities shall not be permitted in the St. Botolph Street Protection Area or in the St. Germain Street Protection Area.

SECTION 41-21. Regulations. The Boston Redevelopment Authority may promulgate and amend from time to time regulations to administer this article.

SECTION 41-22. Severability. The provisions of this article are severable, and if any such provision or provisions shall be held invalid by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this article.

APPENDIX B
Ground Level Uses

1. The following uses are Ground Level Uses, and are allowed uses within the Huntington Avenue/Prudential Center District, provided that, the uses described in Use Items 34A and 38A are forbidden. This list is intended to be illustrative of ground level uses and not exclusive.

Antique stores
Appliances, repair shops
Appliances, sales
Art galleries, commercial and non-profit
Art metal craft shops
Art needle work shops
Artists' supply and music stores
Athletic goods stores
Auditoriums
Bakeries or pastry shops
Bank branch offices
Bank machines, provided that the ground level street frontage of a bank facility containing only bank machines is limited to twenty (20) feet
Barber shops
Beauty parlors
Bicycle stores, rental or repair
Book stores or card stores
Cafes
Candy stores
Carpet, rugs, linoleum, or other floor covering stores
Churches
Cigar stores
Clock or watch stores, or repair shops
Clothing retail establishments
Clothing stores (men's, women's, children's apparel)
Clubs, non-commercial
Coffee shops
Coin stores
Community centers
Costume rental establishments
Dance halls, public
Day Care Centers
Delicatessen stores
Department stores
Diners
Dressmaking shops, custom
Drug stores
Dry cleaning establishments or laundromats
Dry goods or fabric stores
Eating or drinking places, in accordance with the provisions of Use Item Number 38A

Entrance/exit to off-street parking or loading area provided that it occupies not more than thirty (30) feet of ground level street frontage or such other dimension as may be provided in an approved Development Plan
Entrance/exit to public transit facilities
Fabric or yarn store
Fire Stations
Fishing tackle or equipment stores, or rental establishments
Florist shops
Food stores, including supermarkets, produce and grocery stores, markets, health foods, delicatessens, prepared food/special food, spices and herbs, coffees, teas, meat, fish, poultry, and cheese stores
Furniture stores
Furrier shops, custom
Gift shops
Hair products for headwear
Hardware stores
Health club or gym (only a Lobby Entrance Area not occupying more than forty (40) feet of ground level street frontage or such other dimension as is provided in an approved Development Plan is allowed at-grade on streets bounding blocks)
Historical exhibits
Hobby shops
Hotel or motel (only a Lobby Entrance Area not occupying more than forty (40) feet of ground level street frontage or such other dimension as is provided in an approved Development Plan is allowed at-grade on streets bounding blocks)
Housewares
Household appliance repair shops
Ice cream stores
Interior decorating establishments
Jewelry shops
Kitchenware
Lamp shops
Leather goods or luggage stores
Libraries
Locksmith shops
Luggage stores
Millinery shops
Motion pictures or video production studio
Museums
Music stores
Musical instruments, repair
Newsstands, enclosed
Office or business machine stores, sales or rental
Offices (only a Lobby Entrance Area not occupying more than forty (40) feet of ground level street frontage or such other dimension as is provided in an approved Development Plan is allowed at-grade on streets bounding blocks)
Optician or optometrist establishments
Orthopedic stores

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Paint stores
Parish houses
Parks, public or private
Party shops
Perfume shops
Pet shops
Phonographic repair shops
Photographic developing or printing establishments
Photographic equipment stores
Photographic studios
Photographic supply stores
Photostating establishments
Picture framing stores
Police stations
Post offices
Printing establishments
Radio appliance shop, repair or sales
Record stores
Recreational centers (non-commercial)
Residences (only a Lobby Entrance Area not occupying more than forty (40) feet of ground level street frontage or such other dimension as is provided in an approved Development Plan is allowed at-grade on streets bounding blocks)
Schools
Sewing machine stores, selling household machines
Shoe repair and shoeshine shops
Shoe stores
Sign painting shops
Skating rinks, outdoor ice
Sporting goods stores
Sports shop
Stamp stores
Stationery stores
Studios: music, dancing, visual arts, or theatrical
Tailor shops, custom
Telegraph offices
Television repair shops
Theater
Ticket sales
Tobacco stores
Tour operator
Toy stores
Typewriter stores
Typewriter or other small business machine repair stores
Variety or convenience stores
Video or motion picture store, sale or rentals
Wallpaper stores

APPENDIX C
Definitions

For the purposes of this article only, the following words and phrases, when capitalized, shall have the meanings indicated.

1. "Adjusted Income" is defined as it is in 24 CFR Section 813.102, as amended, or as set forth in regulations adopted in accordance with Section 41-14.

2. "Affordable" means, either an owner-occupied dwelling unit, requiring the expenditure by a Low-Income or Moderate-Income Household for mortgage and insurance payments, real estate taxes, and condominium fees of not more than thirty percent (30%) of its Adjusted Income to occupy the unit, a renter-occupied dwelling unit, requiring the expenditure by a Low-Income or Moderate--Income Household for rent payments of not more than thirty percent (30%) of its Adjusted Income.

3. "Annual Income" is defined as it is in 24 CFR Section 813.106, as amended, or as set forth in regulations adopted in accordance with Section 41-14.

4. "Applicant" means any person or entity having a legal or equitable interest in a Proposed Project subject to the provisions of this article, as set forth in Section 41-4, or the authorized agent of any such person or entity.

5. "Curb Line" means the line of the curb or other structure or indication separating the street from the sidewalk.

6. "Development Plan" means the development plan required in Section 3.1A.a of this code, the approval of which plan is a perquisite to the issuance of any building or use permit with respect to any building, structure or land within a Planned Development Area.

7. "Display Window Area" means that portion of the Street Wall between (i) a height of two (2) feet above the ground floor and (ii) the height of the underside of the floor structure of the second floor, or fourteen (14) feet, whichever is less.

8. "Ground Level Uses" means the uses listed in Appendix B to this article.

9. "Historic Building" means a building listed on the Massachusetts Register of Historic Places.

10. "Landmark" means any building or structure designated a landmark pursuant to Chapter 772 of the Acts of 1975, as amended.

11. "Lobby Entrance Area" means the frontage at street level of the lobby of an office, residential, hotel/motel, or other structure.

12. "Low-Income Household" means any household whose Annual Income does not exceed 50% of the Median Gross Income of households in the Boston Standard Metropolitan Statistical Area.

13. "Median Gross Income" is defined as it is by the United States Department of Housing and Urban Development, pursuant to 24 CFR Section 813.102, as amended, or as set forth in regulations adopted in accordance with Section 41-14.

14. "Moderate-Income Household" means any household whose Annual Income does not exceed 80% of the Median Gross Income of households in the Boston Standard Metropolitan Statistical Area.

15. "Huntington Avenue/Prudential Center District Plan" means the comprehensive plan, adopted by the Boston Redevelopment Authority pursuant to Chapter 652 of the Acts of 1960s. Section 3 of Chapter 4 of the Ordinances of 1952 and Section 27D-18 of the code, which sets forth the planning policies, development controls, and design guidelines for the Huntington Avenue/Prudential Center District.

16. "Huntington Avenue/Prudential Center District" means the area depicted on the map in Appendix A and Map 1D of this code.

17. "Proposed Project" means the demolition, erection, reconstruction, structural alteration, or extension of any structure or part thereof, or the change of use of any structure or land, for which the Applicant is required to obtain a building or use permit. A Proposed Project may proceed in phases and may include more than one building, structure, or use.

18. "State Building Code" means the state building code and amendments and rules and regulations thereto as promulgated by the state board of building regulations under sections ninety-three, ninety-four, and ninety-five of Chapter One Hundred Forty-Three of the General Laws.

19. "Street Wall" means the portion of the exterior wall (including recesses, bays, windows, doors, and other features) of a Proposed Project that fronts on a public street (excluding public alleys) and is below the Street Wall Height, determined pursuant to Section 41-18.

20. "Street Wall Plane" means the planar surface of the Street Wall (disregarding recesses, bays, windows, doors, etc.) required pursuant to Section 41-18.

21. "Substantial Accord" means, with respect to building height, that the vertical distance from grade to the top of the structure of the last occupied floor shall not exceed the specified height limit for the applicable district or subdistrict by more than the lesser of (i) ten (10) feet or (ii) two-thirds of the average floor-to-floor height of the building, excluding the ground floor. "Substantial Accord" shall not be interpreted as allowing a Proposed Project to exceed the maximum permitted FAR.

22. "Underlying Zoning" means all zoning regulations, with the exception of this article, which are contained in this code.

23. "Zoning Relief" means any zoning variance, exception, conditional use permit, interim planning permit, or zoning map or text change, or any other relief granted by the Zoning Commission or the Board of Appeal.